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Bennington Will Settle Landfill Superfund Case

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BENNINGTON — After negotiating for more than six years, the town of Bennington has agreed to settle Superfund claims at its former landfill at a cost of roughly \$2.1 million.

A consent decree recently filed in U.S. District Court brings to a close the long-running talks between the U.S. Environmental Protection Agency, the town and about two dozen businesses over who is responsible for cleaning up toxic wastes and monitoring the dump.

"It's been a very long haul," Town Manager Stuart Hurd said Monday.

The town has already spent about \$1 million in legal and engineering fees towards its \$2.1 million share, Hurd said.

A group of manufacturers — among them Johnson Controls, Bijur Lubricating Corp., Eveready Battery Co., and Textron, which is affiliated with the former Benmont Paper Co. — are held responsible for what appears to be another \$10 million to place a permanent cap on the landfill.

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EPA spokeswoman Sarah White declined to comment, saying the agency intended to formally announce the settlement Tuesday.

"I think we're pretty happy where we ended up. I think it's reasonable," said Hurd. "The town did a good deal for itself."

As part of the consent decree — which must still be accepted by the court — the town has agreed to install a leachate collection and treatment system at the landfill. The town is considering linking the system to the municipal

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sewer line and wastewater treatment plant, Hurd said.

The agreement with the EPA also calls for the town to reclaim wetlands off Burgess Road. Hurd said the town had hoped to enhance the wetlands at the headwaters of Jewett Brook, adjacent to the landfill. Environmental officials, however, feared the wetlands would be at risk if there were problems at the dump, he said.

The Burgess Road wetlands will be expanded with the help of the U.S. Fish and Wildlife Service and a local education committee, according to Hurd.

The town agreed to undertake that project in lieu of paying \$158,000 to the EPA, he said.

The Select Board hopes it will not have to increase the tax rate this year to cover the cost of the consent decree, according to Hurd. The fiscal 1998 budget contains \$624,000 for Superfund expenses.

Additional money may be raised when the town sells its police headquarters and four fire stations. (A consolidated fire station is now being built. The town hopes to move the

Police Department into the former Federal Building on South Street.) Bids will be opened for those buildings July 28. The Select Board will set the tax rate in August.

The consent decree holds the town responsible for collecting leachate for about five years, according to Hurd. Once a permanent, multi-layer cap is built over the landfill, the leachate should dry up, allowing the collection system to be dismantled, he said.

The town must also maintain the site and monitor erosion for the next 30 years, submitting annual reports to the EPA and state of Vermont. "Because we are the owner of the site, there is some logic in our taking on the incidental reporting," said Hurd.

The landfill operated from 1969 to 1986. During that time, the town was insured by as many as seven different companies, according to Hurd.

"We're hoping to recover a share (of the Superfund costs) from all our insurers, both the funds we have already spent and which we plan to spend," Hurd said. "We've put them all on notice that we have claims pending. Some are cooperating with us.

Some have not."

The town filed a lawsuit in Bennington Superior Court last month to recover more than \$1 million in Superfund costs from two insurers. The town contends that the Travelers Insurance Co., and to a lesser extent, the Continental Insurance Co., failed to honor policies that should have protected Bennington after the EPA declared the municipal landfill a Superfund site in 1989.

Negotiations with the EPA over who would pay for the cleanup began in March 1991, according to Hurd.

The Select Board authorized Hurd in April to bring negotiations with the EPA to a close. The town manager said, however, that he was surprised by the speed with which the talks concluded.

"Things came to a head much sooner than we expected," said Hurd. "I keep telling everybody I'll be happier about a year from now. We still have work to do at the site and we're under the gun to get this work done. ... It's going to be a hectic summer and fall."